

In the Matter of Merchant Mariner's Document No. Z-769321-D2 and
all other Seaman Documents

Issued to: LEON P. LAWSON

DECISION OF THE COMMANDANT
UNITED STATES COAST GUARD

1483

LEON P. LAWSON

This appeal has been taken in accordance with Title 46 United States Code 239(g) and Title 46 Code of Federal Regulations 137.30-1.

By order dated 19 August 1964, an Examiner of the United States Coast Guard at New York, New York suspended Appellant's seaman documents for twelve months outright plus six months on fifteen months' probation upon finding him guilty of misconduct. The four specifications found proved allege that while serving as an ordinary seaman on board the United States SS ATLANTIC under authority of the document above described, on 14 July 1964, Appellant wrongfully failed to obey a lawful order of the Second Mate to take in a spring wire by hand; he wrongfully failed to obey a lawful order of the Second Mate to go below; Appellant assaulted and battered, with his fists, a member of the crew; and he wrongfully disobeyed a lawful order of the Chief Mate to leave the scene where these events occurred.

At the hearing, Appellant was represented by professional counsel. Appellant entered a plea of guilty to the above four specifications and not guilty to three other specifications. In the absence of the introduction of any evidence at the hearing, the latter three specifications were dismissed by the Examiner on motion by counsel for Appellant.

At the end of the hearing, the Examiner concluded that the charge of misconduct was proved by pleas of guilty to the four remaining specifications and entered the above order in a written decision.

On appeal, counsel respectfully requests that the outright portion of the suspension be reduced to six months, as recommended by himself and the Investigating Officer at the hearing, since the purpose of these proceedings is remedial rather than penal and Appellant has shown his willingness to atone for his misconduct by pleading guilty to four of the seven specifications (which saved the Government considerable expense). Counsel also states that

Appellant has shipped regularly as a merchant seaman since 1946 and this is his only means of supporting his family.

APPEARANCE: Freedman, Landy and Lorry of Philadelphia,
Pennsylvania by Stanley B. Gruber, of Counsel

OPINION

Appellant's prior record consists of a suspension in February 1961 for striking a crew member with a piece of wood and another suspension in December 1961 for assault and battery, with his fists, on a crew member. Commandant's Appeal Decision No. 1327. Including the offenses presently under consideration, this means that Appellant has been found guilty, in less than four years, of three offences of assault and battery as well as three offenses of wilful disobedience of a lawful order given by a ship's officers.

Either one of these category of offences is sufficient to justify an order of revocation in the absence of strong mitigating evidence. Such evidence has not been presented here. Therefore, it is my opinion that the order of suspension imposed by the Examiner is not excessive.

The resulting hardship to Appellant, his clear record prior to 1961 and his pleas of guilty to four specifications do not convince me that the remedial purpose of these proceedings, to promote safety at sea, would be satisfied by an outright suspension of six months, particularly because of the fact that a five months' outright suspension in December 1961 did not have any lasting effect on Appellant with respect to his inclination to assault his fellow crew members.

ORDER

The order of the Examiner dated at New York, New York, on 19 August 1964, is AFFIRMED.

W. D. Shields
Vice Admiral, United States Coast Guard
Acting Commandant

Signed at Washington, D. C., this 1st day of December, 1964.

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